

# Advanced Energy Economy's Comments on the California Public Utilities Commission's Draft Gap Analysis and Customer Choice Action Plan

November 13, 2018

## Introduction

Advanced Energy Economy (AEE) respectfully submits these comments in response to the California Public Utilities Commission (CPUC) Planning and Policy Division's Draft Gap Analysis and Customer Choice Action Plan ("Draft Action Plan") released on October 23, 2018. We greatly appreciate the opportunity to participate in and support this effort.

AEE is a national association of businesses dedicated to transforming public policy to enable a prosperous world that runs on clean, secure, affordable energy. We are comprised of over 100 companies both large and small across the technology spectrum, including energy efficiency, solar, wind, storage, fuel cells, biofuels, electric vehicles, demand response, advanced metering, and enabling software. Our membership also includes large purchasers of advanced energy products and services who are looking to achieve their own business sustainability goals. As an organization that represents a wide range of companies, we balance a wide variety of interests and address issues with a technology-neutral perspective. In these comments, AEE will be referenced collectively as "AEE", "we," and "our."

AEE has substantial experience participating in regulatory proceedings and facilitating conversations between many of the stakeholders who will be affected by and tasked with overcoming the challenges inherent in the changing electricity system – utilities, private advanced energy companies, corporate purchasers, and policymakers. The gaps raised, and recommendations offered in the Draft Action Plan will greatly impact our membership and their future market in California.

AEE believes that the continued enablement of customer choice, as well as the increased participation of advanced energy technologies in California electricity market, will not only help California meet its environmental objectives, but also strengthen grid reliability and reduce overall costs for consumers. In these comments, we have based our responses on targeted categories, as laid out below.

## **Overall Position on Customer Choice**

AEE supports efforts to ensure the California electricity market is fair, affordable, and reliable and offers consumer choice, and the many benefits it can provide. We also believe the market should drive and encourage innovation moving forward. As such, we applaud the CPUC in their efforts to investigate and evaluate the regulatory framework options, identify potential existing gaps, and lay out targeted recommendations and actions to move forward.

AEE urges an approach that enhances, rather than walks back, customer options. Once a proper plan and regulatory construct is in place, there is no reason that participants in a competitive market cannot contribute to California's course as a global leader in achieving deep decarbonization as well as meeting the state's other principal goals of reliability and affordability. The Draft Action Plan identifies a conflict between decarbonization and the efficiency of market-driven outcomes, however, based on our experience we strongly disagree that any such conflict exists. Customer choice, and the entrance of competitive players in the market (i.e., direct access providers and community choice aggregators, or CCAs), can bring to the table innovation and financial creativity that can save ratepayers money. In addition, the competitive players in the market today have met or exceeded their regulatory obligations when it comes to items such as the renewable portfolio standard (RPS), greenhouse gas (GHG) reduction, and resource adequacy under the current structure. In fact, customer preferences for low- and zero-carbon resources, coupled with advances in technology, provide a strong market driver for GHG reduction and serve to further help the state meet its policy targets in the most cost-effective manner. With the IOUs continuing their role maintaining the transmission and distribution system; the CPUC, CEC, and CAISO coordinating and implementing resource adequacy; and the CAISO controlling dispatch and market rules, there will be no change to reliability moving forward.

Therefore, AEE believes that if California gets the regulatory structure right – and without a brand-new compliance authority or extensive regulation – increased customer choice can benefit ratepayers, strengthen the grid, and help the state achieve its goals cost-effectively.

## **Expanding Data Access**

We agree that the issue of data access is important for the continued success of customer choice, DER integration, and customer adaption to time-of-use (TOU) rates. As was recognized in the Draft Action Plan, many issues around data access are not likely to be included within the scope of the click-through applications filed in November but need to be addressed by the CPUC. Specifically, further analysis and



stakeholder input are needed around streamlining CCAs' data access, LSEs' access to aggregated data, and CCA billing and TOU data to DER providers. This last point is particularly important for providing customers effective tools to adapt to default TOU rates in the next couple of years.

As such, we agree with the recommendations in the Draft Action Plan around data access and strongly encourage the CPUC to open a new rulemaking on data access and customer protection issues once the click-through proceeding has been scoped.

## **Aligning and Sending Proper Rate Design Signals to Customers**

The Draft Action Plan notes that “the IOUs are experiencing a widening disparity between the level of resources in their portfolios and what is required to serve the reduced load. At issue is whether the current model and approach to utility rate-setting still works as the state grapples with disaggregated energy planning and procurement, increased time-dependence of loads, generation utilization, GHG emissions, significant growth in the number of LSEs, and IOUs still maintaining responsibility for the wires and poles.” We agree that sending the proper price signal to customers is of utmost importance to encourage efficient and cost-effective use of electricity. As a significant portion of rates are broken down between the generation portion and the T&D portion of customer's bills, it is important that rates are aligned and that they send the proper price signals to customers.

That said, we disagree with the statements in the Draft Action Plan that “customers of non-IOU LSEs are not incentivized to shift load according to TOU price signals.” In fact, ESPs currently do offer TOU pricing through the ability of customers to tie their generation charges to an index of the wholesale market, which many customers take advantage of. We also disagree with the blanket statement that “when customers are opted-in to CCA service, they lose the ability to choose TOU and dynamic rates.” While we do recognize that this is and may continue to be a more pressing issue, many CCAs are working to expand their offerings. For example, Marin Clean Energy currently participates in a TOU program with Pacific Gas and Electric as well as offers several other TOU rate options to customers.<sup>1</sup> That said, moving forward in a coordinated fashion is key to derive the greatest benefits possible from all the changes taking place, and in avoiding potentially adverse outcomes. Therefore, we agree with the Draft Action Plan that the CPUC should explore rate designs across all portions of customer's bills that align with cost-causation and send the proper price signals to customers.

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<sup>1</sup> <https://www.mccleanenergy.org/toueveryday/>



## **The Role of the IOUs and the Customer Relationship**

In an increasingly disaggregated market, we would be remiss not to mention the importance of the utility business model. The current IOU rate structure primarily compensates the utilities for rate base additions/inputs, or steel in the ground — not on outputs such as how well the IOU provides transmission, distribution and customer services. We believe that regulators should consider changes to current regulatory frameworks and utility business models as utilities potentially transition towards “wires only” entities to ensure their financial incentives align with consumer interests, such as facilitating customer choice, and state policy goals. It is becoming increasingly necessary to consider additional utility business model changes, particularly restructuring/aligning incentives (e.g., through performance-based regulation) to achieve the desired outcomes while maintaining the long-term viability of the utility.

It is also critical to consider the day-to-day experience of the individual customer, particularly the individual residential customer, and which entity is ultimately responsible for providing the myriad services currently provided by the IOUs pursuant to specific CPUC direction. Customers who receive their energy from CCAs are still IOU customers for transmission, distribution, billing, and some other services. Historically, customers have relied on their utility for energy management information and recommendations, and the looming fragmentation of the energy marketplace threatens to sever this tie. Maintaining access to this information, such as their usage data and programs and incentives available to them, can better enable customers to make decisions that can lower their own costs, provide broader system benefits, and possibly give them additional revenue by providing grid services. As such, AEE urges the CPUC to consider the importance of the customer relationship and the implications of setting any policy that disintermediates the utility from that relationship.

Finally, we agree with the Draft Action Plan’s recommendation that it is worth examining further if the IOUs have a role to play as a provider of last resort (POLR) to serve customers that might be left stranded if a DA provider or CCA fails. The utilities currently have a responsibility to serve all customers in their service territory, which makes them a “de facto” POLR.

## **Coordination, Flexibility, and Public Purpose Programs**

Moving forward in a coordinated fashion is key to derive the greatest benefits possible from all the changes taking place, and in avoiding potentially adverse outcomes. All LSEs should be required to coordinate to ensure all programs and policies are complementary and align with the state’s policy goals. That said, we do



believe that LSEs should be given substantial flexibility in meeting state goals. One of the benefits of competition is its ability to drive innovation and create new solutions.

All LSEs, including CCAs, should be on equal footing in driving the adoption of electric vehicles (EVs) and other DERs to meet state goals. All customers, regardless of their energy provider, should have access to proven, cost-effective programs, such as energy efficiency and demand response programs, that are currently available to bundled IOU customers – ensuring equivalent access to cost-effective and proven energy management technologies, tools, and related incentives. As such, we encourage the CPUC to further evaluate the current collection of public purpose funds to assure 1) customers paying the Public Goods Charge (PGC) have access to such programs and that 2) the PGC is adjusted accordingly (i.e., fair and equitable distribution of costs through the non-bypassable rate components for all customers) to reflect program availability. In addition, there needs to be strengthened coordination between IOU and other LSEs' customer-facing DER programs to make sure they are complementary rather than duplicative.

Finally, the CPUC should ensure that there are communication protocols, policies, and systems put in place that will ultimately enable IOU vendors and other third-party service providers, whose customers are participating in existing IOU programs specifically, to be notified when an end-use customer's service is shifted to a non-IOU source or provider. Ensuring communication and transparency will enable a smoother transition for all parties involved.

## **CPUC Oversight and Consumer Protections**

We recognize the importance of creating consumer confidence and assuring that consumers are appropriately protected. While we believe the CPUC has a role to play in ensuring consumer protections, we note that many such consumer protections are already in place. The CPUC needs to be careful not to create unnecessary barriers to entry and market development by implementing oversight that is either duplicative of existing consumer protections or that are overly prescriptive and inadvertently stymies innovation and healthy competition. Additionally, it is important that many third party companies and providers have both ongoing relationships with both IOUs and customers and so they already have a strong business incentive to treat customers well, be transparent, and provide good customer service. In regulation, it is important to strike a balance to ensure consumer protections but also not to forestall the development of an animated competitive market through unnecessary compliance costs or eligibility requirements.

In fact, adequate protections already exist. Strong registration requirements for ESPs currently exist including executing agreements with each IOU, payment of financial security and re-entry fees, proof of technical and operational ability, fingerprinting of principal officers, a Scheduling Coordinator at the CAISO,



and extensive metering and billing compliance at the CAISO and CPUC. The Commission has also promulgated additional requirements for ESPs serving residential and small commercial customers to ensure such customers are protected. Moreover, these protections are embodied in statute first initiated in 1996 and amended several times since. Further, once consumers are with a competitive provider, structures are already in place for DA and CCA providers that allow consumers to set a term under which they will remain with the provider, with a nominal fee established for leaving before the contract term has expired. For the aforementioned reasons, we strongly encourage the CPUC to weigh the potential repercussions of implementing additional consumer protections on the animation of a robust, competitive market.

## **The Path Forward**

AEE encourages the CPUC to give thoughtful consideration to next steps for the changing electricity system, including a more thorough analysis of different options and their impact on affordability, fairness, reliability, and customer choice while encouraging flexibility and open collaboration in any action plan moving forward

The principal regulatory agencies, utilities, generators, aggregators, technology and service providers and other key stakeholders must be aligned in working to meet the state's overarching policy objectives in a cost-effective and resource efficient way while maintaining these core attributes. As such, prior to any potential legislative action, the CPUC should work closely with the principal regulatory agencies (i.e., CAISO and CEC), the Legislature, and all stakeholders, including CCAs, DA providers, DER providers, and utilities, to ensure there is a seamless plan moving forward.

## **Conclusion**

AEE supports efforts to ensure the California electricity market is fair, affordable, and reliable and offers consumer choice, and the many benefits it can provide. We believe that the California electricity market will thrive in a more competitive environment. We appreciate the opportunity to provide the CPUC with these comments on the Draft Action Plan and would be happy to serve as a resource moving forward as the CPUC implements the plan moving forward.

Sincerely,

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